THE HON'BLE SRI JUSTICE N.V. RAMANA

W.P. No. 6884 of 2006

O r d e r:

The petitioner's father while working as Telephone Mechanic in the respondent-BSNL, died in harness on 24.05.2001, leaving behind the petitioner herein and one daughter. The mother of the petitioner predeceased his father. Pursuant to the death of his father, the petitioner being the legal heir, made a representation to the 1st respondent requesting to appoint him on compassionate grounds in Group-C post by relaxing the recruitment rules. The 1st respondent, vide letter dated 23.09.2003 informed the petitioner that the High Power Committee, which met on 03.07.2003, examined his case and rejected his request for appointment on compassionate grounds stating that the family is not in distress. Thereafter, he filed a revision petition on 25.08.2004, followed by another petition dated 07.03.2005, for reconsideration of his case, but so far no orders thereon have been passed. Hence, he filed the present writ petition.

The learned counsel for the petitioner submits that the father of the petitioner before his death was seriously ill, and that the petitioner had spent lot of amount for his treatment, and the amounts received by the petitioner towards the death benefits of his father were not even sufficient to repay the loans and debts taken for the medical treatment of his parents and that since the mother of the petitioner predeceased his father, the petitioner had not received any family pension. He submitted that since after the death of the father of the petitioner, the petitioner's family was in financial distress, the petitioner made a representation to the respondents to provide him suitable employment

on compassionate grounds, but the respondents vide the orders impugned in the writ petition, informed the petitioner that the High Power Committee, examined the case of the petitioner, and rejected his request for appointment on compassionate grounds stating that the family is not in financial distress, which is illegal and arbitrary. Thereafter, the petitioner filed a revision petition for reconsideration of his case, but the same has also not considered by the respondents. He thus prayed that the impugned order be set aside and the respondents be directed to provide the petitioner suitable employment on compassionate grounds.

A counter affidavit is filed by the respondents. Reiterating the counter averments, learned Standing Counsel appearing on behalf of the respondent-BSNL contended that there is no evidence produced by the petitioner to support his contention that his family is deeply in debts and the amounts received towards death benefits of his father were spent to clear the said debts. She submitted that an amount of Rs.2,60,034/- in lump sum was paid to the petitioner upon the death of his father towards death benefits. She further submits that the petitioner is working as Helper in a private sector and earning Rs.1600/- per month, and the family of the petitioner also owns a house worth of Rs.4,23,500/- at Banjara Hills, Hyderabad,. She further submitted that the High Power Committee examined the request of the petitioner for compassionate appointment, based on objective assessment of the financial condition of the family i.e. his assets and liabilities, the size of the family and essential needs of the family and other factors, as provided in O.M. No.14014/6/94-Estt. (D), dated 09.10.1998 (Scheme for Compassionate Appointment under the Central Government), and rejected the request of the petitioner, and accordingly the respondents informed the petitioner vide the order

impugned in the writ petition. She further submits that the request of the petitioner for reconsideration of his case for compassionate appointment was also considered and rejected by the respondents, as his family was not in distressed condition, and therefore, the petitioner cannot be allowed to contend that upon the death of his father, their family plunged into deep financial distress, and prayed for dismissal of the writ petition.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-BSNL and perused the material on record, including the scheme for compassionate appointment under the Central Government.

The Government issued revised consolidated instructions, framing the Scheme for Compassionate Appointment under the Central Government, in O.M. No.14014/6/94-Estt. (D), dated 09.10.1998. The object of the scheme is to grant appointment on compassionate grounds to a dependant family member of a Government servant dying in harness or who is retired on medical grounds, thereby leaving his family in penury without any means of livelihood, to relieve the family of the Government servant concerned from financial destitution and to help it get over the emergency. In fact, the High Power Committee constituted by the respondents examined the request of the petitioner for compassionate appointment in the light of the above scheme, and rejected the request of the petitioner on the ground that the family of the deceased is not in financial distress.

The law is well settled that compassionate appointment cannot be claimed as a matter of right, but is granted to enable the family of the deceased to tide over the sudden crises that befalls on the death of the sole breadwinner.

The apex Court in **Shri Umesh Kumar Nagpal v. State of**

Haryana and others[1], has noted the objects of granting compassionate employment, and they are:

> **(i)** To enable the family to tide over the sudden crisis by the death of the sole bread winner;
> **(ii)** To relieve the family of the financial destitution and to help to get over the emergency. The object is not to give a member of such family a post.
> **II.** Mere death of an employee in harness does not entitle his family to such source of livelihood.
> **III.** The Government or public authority has to examine the financial condition of the family of the deceased, and only if it is satisfied, but for the provision of employment, the family will not be able to meet the crisis that a job is to be offered to the eligible member of the family.
> **IV.** The only ground, which can justify compassionate appointment, is the penurious financial condition of the family at the time of death of the employee. Offering employment irrespective of the financial condition of the family is legally impermissible.
> **V .** Consideration for compassionate employment is not a vested right to be exercised at any time in future.

In **General Manager (D & PB) & Ors. V. Kunti Tiwary & Anr.**[2], the apex Court held that in the matter of providing compassionate employment to the dependant of a deceased, the criteria of penury has to be applied, and only in cases where the condition of the family is "without any means of livelihood" and "living hand to mouth" that compassionate appointment was required to be granted. In a very recent judgment in **State Bank of India v. Jaspal Kaur**[3], the apex Court held that a major criterion while appointing a person on compassionate grounds should be the financial condition of the family the deceased person left behind.

Thus, from the law as settled above, it is clear that while considering the grant of compassionate appointment, the financial destitution of the family has to be kept in mind. Therefore, it may be examined whether the High Power Committee of the respondents, was justified in rejecting the request of the petitioner for grant of compassionate appointment on the ground that the family of the deceased was not in financial distress.

A perusal of the affidavit filed in support of the writ petition by

the petitioner clearly shows that the mother of the petitioner predeceased his father and even before the death of his father, the marriage of his sister was also performed. Pursuant to the death of his father, as can be seen from the counter filed by the respondents, the petitioner was paid in all an amount of Rs.2,60,034/- towards terminal benefits of the deceased. Apart from that, it is submitted by the respondents that the petitioner is working as Helper in a private sector and earning Rs.1600/- per month and the family of the petitioner also owns a house worth of Rs.4,23,500/- at Banjara Hills, Hyderabad. The quantum of terminal benefits paid by the respondents to the petitioner, and the amount of Rs.1600/- per month, which he is earning by doing a private job cannot be said to be insufficient for a decent living, nor can he be allowed to contend that upon the death of his father, his family plunged into financial distress and that they are leading a life of “hand to mouth”. The High Power Committee, after assessing the financial condition of the family of the petitioner i.e. his assets and liabilities, the size of the family and essential needs of the family and other factors, as provided in O.M. No.14014/6/94-Estt. (D), dated 09.10.1998 (Scheme for Compassionate Appointment under the Central Government), rejected the request of the petitioner for providing employment on compassionate grounds stating that the family of the deceased is not in financial distress, and no exception can be taken thereto.

Though the petitioner contends that he has spent the amounts received for discharging the debts incurred by them for the treatment of his father, he failed to produce any material before this Court in support of his contention. Hence, the petitioner cannot contend that he had spent the amounts received towards the terminal benefits of his father, for discharge of the loans taken by them for his treatment.

In the above view of the matter, no exception can be taken to the impugned order of the respondents, communicating the decision of the High Power Committee, rejecting the request of the petitioner for providing compassionate grounds stating that the family of the deceased is not in financial distress.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Dated: 28th September, 2007.
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[1] 1994 (4) SCC 138
[2] (2004) 7 SCC 271
[3] 2007 AIR SCW 1044